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Situation of human rights in Myanmar

Report of the Secretary-General*

Summary

The present report is submitted pursuant to paragraph 6 of General Assembly resolution 62/222. On 22 May 2007, the Secretary-General designated his Special Adviser on the International Compact with Iraq and Other Political Issues and former Under-Secretary-General for Political Affairs, Ibrahim Gambari, to continue to pursue the good offices on his behalf. During the reporting period, from 23 October 2007 to 5 September 2008, the Special Adviser visited Myanmar three times at the invitation of the Government, in November 2007, March 2008 and August 2008. On each visit, the Special Adviser was able to engage with representatives of both the Government of Myanmar and the opposition.

During his visits and in all his discussions with representatives of the Government, opposition and other stakeholders, the Special Adviser continued his efforts on behalf of the Secretary-General to promote national reconciliation, the restoration of democracy and respect for human rights in Myanmar, in accordance with the objectives of relevant General Assembly resolutions. To that end, the Special Adviser focused on the following five key areas of concern to the United Nations and the international community, as endorsed by the Group of Friends of the Secretary-General and in the Security Council: (a) the release of all political prisoners, including Daw Aung San Suu Kyi; (b) the need for an enhanced, substantive and time-bound dialogue between the Government and Daw Aung San Suu Kyi; (c) the need for an inclusive and credible political transition process to civilian and democratic government; (d) avenues for improving socio-economic conditions, including through a broad-based national mechanism; and (e) ways to regularize the process of mutual engagement and cooperation through the good offices process.

* The present report is being submitted on 17 September 2008 so as to include as much up-to-date information as possible.

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In consultations with Member States, the Secretary-General and the Special Adviser also reiterated four guiding principles for the implementation of the Secretary-General's good offices mandate, namely: (a) the good offices are a process, not an event, and require sustained engagement through regular visits and consultations with all concerned; (b) the situation in Myanmar requires comprehensive engagement on a broad range of political, human rights, humanitarian and socio-economic issues; (c) engagement cannot be an end in itself, but must yield concrete results; and (d) the international community needs to continue to work together constructively in support of the goals of the good offices.

Following the designation, on 8 October 2007, of the Minister for Relations with Daw Aung San Suu Kyi, they both met together five times between November 2007 and January 2008. This marked the first attempt at a dialogue between the Government and Daw Aung San Suu Kyi since 2003. In addition, for the first time in four years, Daw Aung San Suu Kyi was allowed to meet twice with the Central Executive Committee of the National League for Democracy (NLD).

On 9 February 2008, the Government of Myanmar for the first time made public a time frame for the next steps in its political "road map" process towards the establishment of a civilian and democratic government, announcing that a national referendum on a draft constitution would be held in May 2008, followed by multiparty elections in 2010.

On 2 May 2008, cyclone Nargis struck Myanmar, leaving an estimated 140,000 people dead or missing, and an estimated 2.4 million people severely affected. In response to the cyclone, the Secretary-General visited Myanmar on 22 and 23 May 2008, marking the first visit to that country by a Secretary-General of the United Nations in 44 years. Following the Secretary-General's discussions with State Peace and Development Council Chairman Senior General Than Shwe, access for international aid workers was facilitated, and a Tripartite Core Group coordination mechanism was set up between the Government of Myanmar, the United Nations and the Association of Southeast Asian Nations (ASEAN) to facilitate an effective large-scale humanitarian response. On 25 May 2008, the Secretary-General returned to Myanmar to co-chair a joint high-level pledging conference in Yangon with the Government of Myanmar and ASEAN.

On 10 May 2008, the Government of Myanmar held a constitutional referendum as planned, despite the Secretary-General's call to it to dedicate all available resources to the emergency humanitarian response as a matter of priority. Voting was postponed to 24 May 2008 in the 47 townships most affected by the cyclone. On 29 May 2008, the Government announced that the draft constitution had been formally adopted, with a reported 92.48 per cent approval and 98.12 per cent turnout of voters.

On 27 May 2008, the Government of Myanmar extended the house arrest of Daw Aung San Suu Kyi. In a statement issued on the same day, the Secretary-General expressed his disappointment at the Government's decision and stressed that the release and ability of all political prisoners to take part in the political process remained at the forefront of discussions with the Government of Myanmar in the context of his good offices.

From 4 to 7 August 2008, the new Special Rapporteur for Human Rights, Tomás Ojea Quintana, made his first visit to Myanmar at the invitation of the Government. This followed a visit by his predecessor, Paulo Sérgio Pinheiro, in November 2007, at the behest of the Special Adviser, after four years without being granted access to the country. It also followed the adoption, on 28 March and 18 June 2008, by the Human Rights Council, of two resolutions (7/31 and 8/14) urging Myanmar, inter alia, to cooperate with the Special Adviser.

Following the official announcement of the adoption of a new Constitution, the Government of Myanmar has expressed its determination to proceed with multiparty elections by 2010, the fifth step in its seven-step road map. At the same time, a number of key stakeholders, including NLD, have formally stated their rejection of the new Constitution and the process by which it was adopted. Thus, despite the Government's efforts in implementing its road map process, the political situation in Myanmar has become even more complex and challenging, drawing increased attention from the international community. The Secretary-General and his Special Adviser have consistently emphasized that only a credible and inclusive political process — based on mutual understanding and compromise by all stakeholders — can help to advance the prospects of durable peace, national reconciliation, democracy and respect for human rights in Myanmar.

In this regard, the support of the international community, including countries in the region, for the good offices of the Secretary-General and the work of his Special Adviser continue to be essential to the continuation of those efforts. The Secretary-General welcomes and encourages the constructive role played by Myanmar's neighbours and ASEAN member States in support of his good offices and the work of his Special Adviser. He further welcomes the April 2008 conclusion by the European Council on Myanmar and the July 2008 statements by ASEAN, the Group of Eight, the East Asian Summit, and the ASEAN Regional Forum, which all expressed support for his good offices and for the continued efforts of his Special Adviser.

While the spirit of cooperation between Myanmar and the United Nations has been marked by improvement in recent months, including through the visits of the Secretary-General and of his Special Adviser, it remains a source of frustration that meaningful steps with tangible results have yet to be taken by the Myanmar authorities in response to the concerns and expectations of the United Nations and the international community in the context of the good offices process.

Ultimately, the future of Myanmar rests with the Government and people of Myanmar. The role of the United Nations is to ascertain the positions of all parties and facilitate their efforts to work together through dialogue towards a mutually acceptable process of national reconciliation and democratization, in full respect of Myanmar's sovereignty and in accordance with the expectations of the international community. Independently of any formal process, the political challenges of any transition to democracy require negotiated political solutions. As the country reaches a delicate juncture in its political development, there is no real alternative to a peaceful process of national reconciliation and now is the time for the Government and opposition alike to find ways to talk to each other and work together in the interest of the nation, with a view to advancing the shared objectives of peace, prosperity and democracy as the necessary foundations for long-term stability and development.

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I. Introduction

1. The present report is submitted pursuant to paragraph 6 of General Assembly resolution 62/222, in which the Assembly requested the Secretary-General, inter alia, to continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and the people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar, to offer technical assistance to the Government in that regard, and to report to the General Assembly at its sixty-third session, as well as to the Human Rights Council, on the progress made in the implementation of the resolution. The report focuses on the good offices dimension of the resolution covering the period elapsed since the previous report of the Secretary-General to the General Assembly (A/62/498), from 23 October 2007 to 5 September 2008. A separate report by the Special Rapporteur on the situation of human rights in Myanmar was circulated on 3 June 2008 under the symbol A/HRC/8/12.

2. Since the last report of the Secretary-General, further efforts have been made to engage the Myanmar authorities, as well as other key stakeholders, in an all-inclusive process towards national reconciliation, restoration of democracy, and respect for human rights through the good offices mandate entrusted to the Secretary-General by the General Assembly. During the reporting period, the Special Adviser visited Myanmar three times at the invitation of the Government: in November 2007, March 2008 and August 2008. On each visit, the Special Adviser was able to engage with representatives of both the Government of Myanmar and the opposition, as well as meet with the United Nations country team, the International Committee of the Red Cross and the diplomatic corps. Simultaneously, extensive consultations with key interested Member States have sought to build on the international community's broad support for the Secretary-General's good offices and the work of his Special Adviser.

II. Key developments

3. From 3 to 8 November 2007, the Special Adviser visited Myanmar in follow-up to his previous visit from 29 September to 2 October 2007, amid continued international concern in the wake of the peaceful demonstrations that took place in August-September 2007 and the subsequent repression by the Government. He met with Prime Minister General Thein Sein, Secretary-1 of the State Peace and Development Council, Lieutenant-General Thiha Thura Tin Aung Myint Oo, the Minister for Foreign Affairs, U Nyan Win, the Minister of Information, Brigadier-General Kyaw San, and the Minister of Culture Major-General Khin Aung Myint, both as members of the State Peace and Development Council Spoke Authoritative Team and in their capacity as members of the newly appointed Constitution Drafting Commission. The Special Adviser also met with the Minister of Labour, Major-General Aung Kyi, as Minister for Relations with Daw Aung San Suu Kyi, as well as with the Ministers for Planning, U Soe Tha and Religious Affairs, Brigadier-General Thura Myint Maung. Separately, the Special Adviser met again with the NLD General Secretary, Daw Aung San Suu Kyi and, separately, with the members of the NLD Central Executive Committee, including Chairman U Aung Shwe, Secretary U Lwin and Treasurer U Nyunt Wai. On 8 November 2007, at the request,

and on behalf of, Daw Aung San Suu Kyi, the Special Adviser released the first public statement by her since the beginning of her most recent house arrest in 2003.

4. From 11 to 15 November 2007, the Special Rapporteur for human rights, Mr. Paulo Sérgio Pinheiro, visited Myanmar at the invitation of the Government and in response to Human Rights Council resolution S-5/1, in which the Council directed him to assess the current human rights situation, including the Government repression of demonstrations in August-September 2007. That was the first visit to Myanmar by the Special Rapporteur after four years of not being granted access to the country. Following his visit, the Special Rapporteur's preliminary findings were that Government agents had used excessive force against demonstrators. He reported that at least 653 persons were still detained, 74 were missing and at least 31 had been killed during the demonstrations. In a note verbale dated 9 December 2007 (A/HRC/6/G/14), the Government of Myanmar rejected the findings, claiming that the Government had "exercised utmost restraint" and that only 10 persons had been killed during the events.

5. On 4 December 2007, further to a request by the Government, the United Nations Resident Coordinator, Charles Petrie, concluded his assignment in Myanmar. In a prior statement, the Secretary-General expressed his disappointment at the decision by the Government and reaffirmed his full confidence in the United Nations country team and its leadership.

6. On 9 February 2008, the Government of Myanmar for the first time, made public a time frame for the next steps in its political "road map" process towards the establishment of a civilian and democratic government, announcing that a national referendum on a draft constitution would be held in May 2008, followed by multiparty elections in 2010. On 19 February 2008, the Government announced the finalization of its draft constitution, based on principles adopted by the National Convention, which completed its work in September 2007 after 14 years of intermittent sessions. On 26 February 2008, the Government established a Referendum Convening Commission, charged with organizing and conducting the planned referendum.

7. During his visit to Myanmar, from 6 to 10 March 2008, the Special Adviser met with, inter alia, the Minister for Foreign Affairs, the State Peace and Development Council Spoke Authoritative Team, and members of the Referendum Convening Commission and the Constitution Drafting Commission, as well as with the Minister of Planning, U Soe Tha, and Minister of Health, U Kyaw Myint. He also met twice with Daw Aung San Suu Kyi and with the NLD Central Executive Committee, as well as other political parties and civil society groups.

8. On 2 and 3 May 2008, Myanmar was struck by the powerful cyclone Nargis, which caused widespread destruction and loss of life, leaving an estimated 140,000 dead or missing. The Ayeyarwaddy Delta and Yangon Division were badly damaged, with some 2.4 million people severely affected, including by the loss of shelter, livelihood, and access to food and water. On 9 May 2008, the United Nations launched a flash appeal, requesting US$ 201 million to fund a large-scale operation to assist those affected by the cyclone. On 19 May 2008, the Secretary-General dispatched his Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, John Holmes, to Myanmar to consult with the Government on ways to ensure access for humanitarian assistance and a coordinated response. On 22 and 23 May 2008, the Secretary-General visited Myanmar amid heightening

international concern over the fate of the cyclone victims and delayed access to affected areas for international relief agencies. Following the Secretary-General's meeting with the Chairman of the State Peace and Development Council, Senior General Than Shwe and other members of Myanmar's senior leadership, agreement was reached that Myanmar would allow free access to international aid workers. On 25 May 2008, the Secretary-General returned to Myanmar to co-chair a joint high-level international pledging conference in Yangon with the Government of Myanmar and ASEAN to secure pledges for emergency relief needs. On 10 July 2008, the United Nations launched a revised appeal, requesting a total of US$ 481.8 million to cover humanitarian needs following the cyclone until April 2009. As of 28 August, the revised appeal was 41 per cent funded. From 23 to 25 July 2008, the Emergency Relief Coordinator returned to Myanmar to follow up on his May visit in order to assess post-cyclone relief efforts. In addition, the Executive Secretary of the Economic and Social Commission for Asia and the Pacific, Ms. Noeleen Heyzer, as well as other senior officials of United Nations agencies, visited Myanmar to assess the relief efforts.

9. On 10 May 2008, the Government of Myanmar held a referendum on the draft constitution as planned, despite calls from the Secretary-General to the Government to devote all available resources to recovery efforts following the destruction caused by cyclone Nargis. Voting was postponed until 24 May 2008 in the 47 townships most affected by the cyclone. On 29 May 2008, the Government announced that the draft constitution had been formally adopted, with a reported 92.48 per cent approval and 98.12 per cent turnout of voters.

10. On 27 May 2008, the Government extended the house arrest of Daw Aung San Suu Kyi. In a statement issued on the same day, the Secretary-General expressed his disappointment at the Government's decision and stressed that the release and ability of all political prisoners to take part in the political process remained at the forefront of discussions with the Government of Myanmar in the context of his good offices.

11. From 4 to 7 August 2008, the new Special Rapporteur for Human Rights, Mr. Tomás Ojea Quintana, made his first visit to Myanmar at the invitation of the Government. This followed the adoption by the Human Rights Council on 28 March and 18 June 2008, respectively, of resolutions 7/31 and 8/14 urging Myanmar, inter alia, to cooperate with the Special Rapporteur and the Special Adviser. During his visit, the Special Rapporteur met with five prominent political prisoners in private at the Insein Prison. He also met, inter alia, with the Ministries of Foreign Affairs, Labour and Home Affairs, as well as the Chief of the Myanmar Police Force and representatives of the national human rights body. He met with three NLD Central Executive Committee members in private. Following the Special Rapporteur's visit, on 8 August 2008, Daw Aung San Suu Kyi was allowed for the first time in four years to meet with her lawyer; this was followed by several subsequent meetings in August and September 2008.

12. A planned return visit to Myanmar by the Special Adviser in late May 2008, at the Government's invitation, was postponed due to the intervening cyclone Nargis. From 18 to 23 August 2008, the Special Adviser visited Myanmar again, and met with senior-level members of the Government, including the Prime Minister, the State Peace and Development Council Spokesperson Authoritative Team, the Minister for Relations with Daw Aung San Suu Kyi and the Ministers of Planning

and Health. In addition, the Special Adviser visited Kungyangon, one of the areas most affected by cyclone Nargis, and met with the Tripartite Core Group. The Special Adviser also met twice with the NLD Central Executive Committee, as well as with other political parties and civil society groups. Although arrangements were made for the Special Adviser to meet with Daw Aung San Suu Kyi, she did not attend the meeting.

13. In parallel to his direct engagement with the Government and other relevant parties in Myanmar, the Special Adviser continued his consultations with key interested Member States, with a view to building on the international community's broad support for the Secretary-General's good offices. During the reporting period, consultations with Government counterparts took place in Bangkok, Beijing, Brussels, Hanoi, Jakarta, New Delhi, Phnom Penh, Singapore, Tokyo, Vientiane, and Washington, D.C. As per usual practice, the Special Adviser briefed the President of the General Assembly on the outcome of each of his visits to Myanmar. On 18 December 2007, at the invitation of the President of the General Assembly, the Special Adviser briefed an informal plenary session of the General Assembly on the good offices.

14. On 19 December 2007, the Secretary-General convened and chaired the first meeting of the "Group of Friends of the Secretary-General on Myanmar". Representing a broad range of views by key interested Member States, the Group provides an informal forum for the exchange of views and the development of a shared approach in support of the Secretary-General's good offices. The Group of Friends held four further meetings at the level of Permanent Representatives on 13 February, 18 March, 23 July and 12 September 2008. On 27 September 2008, the Secretary-General convened and chaired the first high-level meeting of the Group of Friends, with the participation of Ministers from several concerned countries as well as the Secretary-General of ASEAN and the High Representative of the European Union. At the conclusion of the high-level meeting, the Secretary-General, for the first time, issued a press statement summarizing the key elements of the discussion among the members of the Group.

15. At the request of the Security Council, the Special Adviser briefed the Security Council on his good offices efforts on 13 November 2007 and 18 March, 24 July and 11 September 2008. In addition to two press statements issued on 14 November 2007 (SC/9171) and 17 January 2008 (SC/9228), the Security Council adopted on 2 May 2008 a second[1] presidential statement (S/PRST/2008/13) underlining, inter alia, the need for the Government of Myanmar to establish the conditions and create an atmosphere conducive to an inclusive and credible process, including the full participation of all political actors and respect for fundamental political freedoms, while reaffirming its unwavering support for the Secretary-General's good offices mission and his Special Adviser. Also on 2 May 2008, the Permanent Representative of Myanmar to the United Nations submitted a letter to the President of the Council (S/2008/289) objecting to the presidential statement and the Security Council's consideration of the matter.

16. Throughout the reporting period, increased demands on the good offices of the Secretary-General were met through capacity provided in part by extrabudgetary contributions. The Secretary-General would like to take this opportunity to thank

[1] The first was S/PRST/2007/37, adopted on 11 October 2007.

Norway, Italy and the European Commission for their respective financial contributions in support of his good offices. In order to sustain this capacity throughout 2009, the Organization should ensure that adequate resources are provided to the Office of the Special Adviser to support the continued implementation of the good offices mandate entrusted to the Secretary-General by the General Assembly.

III. Content and outcome of discussions

17. On each of his visits to Myanmar and in all his discussions with representatives of the Government, opposition and other stakeholders, the Special Adviser consistently pursued, on behalf of the Secretary-General, the following five-point agenda reflecting key concerns of the United Nations and the international community, as endorsed by the Group of Friends of the Secretary-General and the Security Council, and in accordance with the objectives of relevant General Assembly resolutions: (a) the release of all political prisoners, including Daw Aung San Suu Kyi; (b) the need for an all-inclusive, substantive and time-bound dialogue; (c) the need for an all-inclusive and credible political transition process to civilian and democratic government; (d) avenues for improving socio-economic conditions; and (e) ways to regularize the good offices process between Myanmar and the United Nations. Under each of these areas, the Special Adviser made specific suggestions for the consideration of the Government, the opposition and other stakeholders.

18. By the time the Special Adviser visited Myanmar in November 2007, the Government had taken a number of steps in response to suggestions made during his previous mission, with a view to relaxing the security measures imposed during the demonstrations of August-September 2007: curfews had been lifted, visible military personnel had been largely withdrawn from city streets and, according to the Government, some 2,700 persons that had been detained in the course of the demonstrations had been released. Following the designation, on 8 October 2007, of the Minister for Relations with Daw Aung San Suu Kyi, at the Special Adviser's suggestion, the first of five meetings took place between them, marking the first attempt at a dialogue between the Government and Daw Aung San Suu Kyi since 2003. On 18 October 2007, the Government established a 54-member Constitution Drafting Commission, instead of a broad-based constitutional review mechanism as recommended by the Special Adviser following the completion of the National Convention in September 2007.

19. During his visit from 3 to 7 November 2007, the Special Adviser, while acknowledging the above-mentioned steps, emphasized in his discussions with Government interlocutors that a return to the status quo before the September crisis would be unsustainable for Myanmar and unacceptable to the international community. Amid ongoing reports of human rights abuses by the authorities and continued arrests and detention of persons for expressing political beliefs, the Special Adviser conveyed the concerns and expectations of the United Nations and the international community regarding the obligation of the Government of Myanmar to ensure the basic rights and fundamental freedoms of its citizens. In this regard, the Special Adviser stressed the need for the Government to take further steps to release the political prisoners and individuals arrested during the

demonstrations, as well as relax any outstanding security measures imposed during the crisis.

20. The Special Adviser further welcomed the designation of the Minister for Relations with Daw Aung San Suu Kyi and the fact that the two of them had started to meet. He encouraged the Government and Daw Aung San Suu Kyi to engage in an enhanced, substantive and time-bound dialogue and offered his good offices to continue to facilitate such a dialogue. The Special Adviser also reiterated international concerns about the need for the Government's political road map process to be given a time frame and to be made more transparent and inclusive of all political stakeholders in the country. In particular, the Special Adviser stressed the need for the Government to address the legitimate concerns and reservations of all domestic constituents, including NLD and ethnic nationality groups. In this regard, he recommended that the Constitution Drafting Commission be enlarged to ensure the broadest possible representation of views from across the political spectrum, including those who had not participated in the National Convention, and that any draft text of the constitution be circulated as widely as possible to allow for a proper process of information and consultation. In addition, the Special Adviser encouraged the Government to consider the establishment of a broad-based national mechanism to identify and address the socio-economic conditions underlying the demonstrations of August-September 2007.

21. In response, the Government emphasized the unique and complex nature of Myanmar's political and economic situation and the Government's efforts to address the challenges facing the country, including through its seven-step political road map towards the establishment of civilian and democratic government. The Government stressed that the National Convention and the Constitution Drafting Commission ensured that the road map process would be broadly representative. The Minister for Relations and Daw Aung San Suu Kyi indicated separately to the Special Adviser their understanding that the dialogue initiated between them would continue based on regular discussions and notwithstanding any differences of view that might arise. The Minister for Relations also indicated that the Government would turn to the Special Adviser for help in overcoming any obstacles that might arise in the course of such dialogue. With regard to the Special Adviser's proposal for a mechanism to address socio-economic issues, the Government did not object to considering the idea of establishing a broad-based "national economic forum", while stressing that international sanctions were the main cause of any economic difficulties in the country.

22. At the conclusion of his mission on 8 November 2007, and with the Government's prior acquiescence, the Special Adviser issued a statement at the request, and on behalf of, Daw Aung San Suu Kyi, in which she, inter alia, welcomed the appointment of the Minister for Relations and looked forward to further regular discussions with him, with a view to starting a meaningful and time-bound dialogue with the State Peace and Development Council leadership as soon as possible; expressed her commitment in the interest of the nation to cooperate with the Government in order to make the process of dialogue a success; pledged to give consideration in the dialogue to the interests and opinions of as broad a range of political organizations and forces as possible, in particular those of ethnic nationalities; and welcomed the necessary good offices role of the United Nations to help to facilitate efforts in that regard. That was the first public statement made by Daw Aung San Suu Kyi since she was put under house arrest in 2003. It followed an

announcement by the Government (No. 1/2007), on 4 October 2007 that the Senior General would personally meet Daw Aung San Suu Kyi if she declared to give up "her efforts for confrontation, utter devastation, and imposing all kinds of sanctions, including economic sanctions, against Myanmar". On 9 November 2007, Daw Aung San Suu Kyi was permitted, for the first time in four years, to meet with the Central Executive Committee of her NLD party, the first of two such meetings. On the same day, Daw Aung San Suu Kyi also met for the second time with the Minister for Relations, which was followed by three more meetings between November 2007 and January 2008.

23. By the time the Special Adviser visited Myanmar again in March 2008, the potentially positive developments of the past two visits appeared to wane, as reports of arrests and human rights abuses continued. In particular, Daw Aung San Suu Kyi's meetings with the Minister for Relations and with the NLD Central Executive Committee were discontinued. The announcement by the Government, on 9 February 2008, of its plan to hold a constitutional referendum in May 2008, followed by multiparty elections in 2010, marked a significant step, in that it was the first time that the Government offered a time frame for its political road map process, following the 14-year-long National Convention. However, the announcement by the Government, on 19 February 2008, that the draft constitution had been finalized by the Constitution Drafting Commission effectively closed avenues for input from other stakeholders.

24. During his visit to Myanmar from 6 to 10 March 2008, the Special Adviser encouraged the Government to make further efforts through tangible steps to demonstrate meaningful progress in the areas discussed during his previous visit. In particular, the Special Adviser conveyed to the Government the position and expectation of Daw Aung San Suu Kyi regarding the need for the dialogue to continue, and urged the Government to resume its discussions with her without delay and consider elevating the level of its interlocutor. The Special Adviser further encouraged the Government and the Constitution Drafting Commission not to forgo the opportunity of opening up the political process to more stakeholders, including NLD and others who had not participated in the National Convention and/or expressed serious reservations about the constitution-drafting process. At the very least, the Special Adviser recommended that the text of any draft constitution be distributed as widely as possible and sufficiently in advance of any referendum, so as to allow all stakeholders a proper period of reflection and consultation.

25. In his discussions with the Government and the newly appointed Referendum Convening Commission, the Special Adviser stressed the responsibility of the Government of Myanmar to establish the conditions and create an atmosphere conducive to a free and fair referendum, in accordance with international standards, including the full participation of all political actors and respect for fundamental political freedoms. In accordance with the General Assembly mandate, the Special Adviser held out the option, at the Government's request, of discussing the possibility of any technical assistance from the United Nations and independent observation of the process. Separately, the Special Adviser also reiterated to the Government the need for the establishment of a broad-based national economic forum to address socio-economic vulnerabilities.

26. Whereas the Government had expressed its readiness to consider the suggestions made by the Special Adviser in November, it did not respond positively

29. The international humanitarian response to the devastation caused by cyclone Nargis, which hit Myanmar on 2 and 3 May 2008, showed the readiness of the international community to provide assistance to Myanmar in its hour of need. Amid international concerns about Myanmar's initial reluctance to grant access to international aid workers, the Secretary-General stressed the need to separate the humanitarian response from political considerations, in order to be able to provide assistance to those in need as a matter of urgency. During his visit to Myanmar on 22 and 23 May, the Secretary-General reached agreement with Chairman of the State Peace and Development Council Senior General Than Shwe on the need for Myanmar to facilitate a large-scale international aid operation. This marked the first visit by a Secretary-General of the United Nations to Myanmar in 44 years.

30. The international humanitarian response was coordinated by the Tripartite Core Group, a unique mechanism established to combine national, regional and international resources and capacities by bringing together representatives of the Government of Myanmar, ASEAN, and the United Nations. Responding to donor requests, the Government facilitated access for aid workers and worked with the United Nations and ASEAN to jointly conduct a thorough assessment of the damage caused by the cyclone. On 21 July 2008, the Tripartite Core Group released the Post-Nargis joint assessment report, which provides a comprehensive multisectoral assessment of the damage caused by the cyclone and estimated short, medium and longer-term recovery needs at US$ 1 billion over a three-year period. On 21 July 2008, the ASEAN Ministerial Meeting held in Singapore agreed that the mandate of the Tripartite Core Group should be extended for 2009, in order to continue the tripartite cooperation for recovery work.

31. The visit by the Special Adviser to Myanmar from 18 to 23 August 2008 was the first since cyclone Nargis and the constitutional referendum. In contrast to his previous visit, the Special Adviser's discussions with the authorities were conducted in a healthier spirit and stronger expression of the willingness on the part of the Government to cooperate with the good offices mission. With regard to the release of political prisoners, the Special Adviser stressed that this should be considered as a matter of priority for sick and elderly detainees, on humanitarian grounds, and for all those who may have contributions to make to the political process, including Daw Aung San Suu Kyi, U Tin Oo, and leaders of ethnic political parties. In response, the Government recalled its past practice had been to apply an amnesty procedure, as appropriate, and that this could be considered again. The Special Adviser further stressed the importance, at this juncture of the political process, of resuming an enhanced, substantive and time-bound dialogue between the Government and the opposition as the only viable avenue for addressing outstanding political issues, including any issues arising from the constitutional referendum and the Constitution itself. For the first time, the Government explicitly recognized the potential role of the United Nations in facilitating such a dialogue, by requesting the Special Adviser to discuss with Daw Aung San Suu Kyi and NLD "points of agreement, points of disagreement, and points of convergence". The Minister for Relations with Daw Aung San Suu Kyi also confirmed that the dialogue started in November 2007 had not been terminated, but merely interrupted, in part owing to the organization of the referendum and the intervening cyclone Nargis.

32. With regard to the political process, the Special Adviser reiterated the necessity for the process to be as credible and inclusive as possible, and include the free and unfettered participation of all political actors and respect for fundamental

human rights, such as freedom of expression and assembly, so as to be acceptable both nationally and internationally. In accordance with the General Assembly mandate, the Special Adviser held out the option, at the Government's request, of discussing conditions and requirements for any technical assistance from the United Nations and independent observation of any electoral process. The Government indicated that, once established, a new electoral commission would be competent to consider such an option, although no timeline was given for the establishment of the commission. The Government also gave assurances that elections would be free and fair. For the first time, the Government also indicated its readiness to work with the United Nations in the context of good offices to identify areas of cooperation in the socio-economic field, and agreed to submit proposals to that end. In terms of process, the Government invited the Special Adviser to return soon to Myanmar and agreed to allow his staff to apply for a visa to visit Myanmar in between his visits.

33. The fact that Daw Aung San Suu Kyi did not meet with the Special Adviser, as arranged by the Government on this visit, was a source of disappointment, as it is inconsistent with all their meetings during each prior visit and with her stated commitment to the good offices role of the United Nations. The Special Adviser immediately requested that the programme of his visit be put on hold and made a number of specific suggestions for the Government to resolve the situation, including suggestions received from the NLD Central Executive Committee. At his request, the Special Adviser also held a second meeting with the NLD Central Executive Committee, at which it agreed with the Special Adviser's proposed approach to resolving the situation and endorsed the United Nations five-point agenda, except with regard to any discussions concerning the Government's planned election in 2010. In a note dated 18 August 2008, addressed to the Special Adviser, the NLD Central Executive Committee listed the following substantive demands: "(i) to get the right of review of the national Constitution (2008), which was unilaterally drafted and ratified by force by the authorities and which is not yet in force; (ii) to mediate for the solutions to the issues presently facing the country, such as political and constitutional problems, without addressing the topic of new election; (iii) to attempt to materialize a meaningful dialogue between Daw Aung San Suu Kyi and the State Peace and Development Council within one month; (iv) to get recognition for the result of the 1990 election in some way; and (v) to inform the authorities that NLD is ready to negotiate without preconditions any issues for national reconciliation".

34. The fact that Daw Aung San Suu Kyi did not meet with the Special Adviser on his last visit and that the Government could not resolve this situation during the visit prevented the Special Adviser from ascertaining and reporting her views on these and other matters, with a view to finding a mutually agreeable starting point for the resumption of the dialogue. While welcoming the Government's favourable consideration of the issues raised by the Special Adviser and its receptiveness to some of the specific suggestions made in that regard, the Special Adviser stressed that it was the expectation of the international community and the primary responsibility of the Government that Myanmar demonstrate, without delay, its stated commitment to the Secretary-General's good offices through meaningful tangible results. The Special Adviser also again insisted on the need for the Government to allow Daw Aung San Suu Kyi regular access to her doctor, stressing that it was the Government's responsibility to ensure that her health was not in jeopardy.

35. In a letter dated 2 September 2008, addressed to the Special Adviser, the Government of Myanmar informed him that, in follow-up to the Special Adviser's proposal, Daw Aung San Suu Kyi had been informed through her lawyer on 1 September of a proposal by the Government for a meeting between her and the Minister for Relations on 2 September. The Government indicated that while Daw Aung San Suu Kyi did not refuse to meet with the Minister for Relations, her response had been that, for the time being, she would not meet with anyone except her lawyer. The Government also informed the Special Adviser that it had offered to arrange a visit by her personal doctor, which Daw Aung San Suu Kyi had also declined at that time. Subsequently, the Government informed the Special Adviser of a second proposal by the authorities to Daw Aung San Suu Kyi for a meeting between her and the Minister for Relations on 15 September. The Government indicated, and subsequent reports confirmed, Daw Aung San Suu Kyi's response that she wished to meet with the Minister for Relations but not at that time. In letters dated 10 and 23 September 2008 to the Special Adviser, the Government further assured that "the Myanmar authorities are committed to the policy of national reconciliation and are willing for continued dialogue with Daw Aung San Suu Kyi".

36. On 23 September 2008, the Government of Myanmar announced the amnesty release of a number of prisoners, which included several political prisoners, notably Myanmar's longest serving prisoner of conscience, U Win Tin, and other senior members of NLD whose individual cases were the focus of discussions between the Special Adviser and the Myanmar authorities during his latest visit. In a statement on 24 September, the Secretary-General welcomed this development while reiterating that all political prisoners should be released and that all citizens of Myanmar should be able to enjoy political freedoms as necessary steps towards the process of national reconciliation and dialogue, and looked forward to any further action by the Government of Myanmar in this regard. On 25 September, however, one of the released political prisoners was rearrested.

37. In consultations held throughout the reporting period with key interested Member States, the Secretary-General and the Special Adviser reiterated the following key guiding principles for the implementation of the good offices mandate: (a) the good offices should be seen as a process, not an event; (b) the good offices need to yield tangible results; (c) it is important for all sides in the national reconciliation process to be willing to engage in substantive dialogue; (d) conditions need to be put in place for a credible, transparent and inclusive political process; (e) the good offices need to pursue a comprehensive approach addressing a broad range of political, human rights, humanitarian and socio-economic concerns; and (f) all key interested Member States need to work together constructively in support of the good offices process.

38. Although Member States differed in their assessment of the situation in Myanmar, they repeatedly expressed broad support for the Secretary-General's good offices and the efforts of his Special Adviser. On 9 July 2008, the Group of Eight issued a statement expressing concern about the political situation in Myanmar, calling for the release of Daw Aung San Suu Kyi, urging Myanmar to cooperate with the good offices, and noting that the Group was prepared to respond positively to political progress. On 20 July 2008, the ASEAN Foreign Ministers stressed the importance of the Secretary-General's good offices to help Myanmar to move forward, and on 21 July 2008, they urged Myanmar to take bolder steps towards a peaceful transition to democracy. On 22 July 2008, Foreign Ministers at the East

Asia Summit reaffirmed their continued support for the good offices, and the ASEAN Regional Forum on 24 July 2008, while recognizing that Myanmar was trying to address many complex challenges, urged it to continue working closely with the good offices.

39. At the conclusion of the high-level meeting of the Group of Friends of the Secretary-General on Myanmar on 27 September 2008, the Secretary-General issued a press statement in which he noted that: members of the Group were unanimous in expressing continued strong support for his good offices and for their implementation through his Special Adviser; while noting the recent actions taken by the Government of Myanmar, members of the Group also further encouraged it to work more closely with and respond more positively to the good offices of the Secretary-General to address key issues of concern to the international community, especially the release of political prisoners, including Daw Aung San Suu Kyi, and the initiation of an all-inclusive dialogue between the Government and the opposition; and members of the Group encouraged all parties in Myanmar to seize the opportunity of the good offices of the Secretary-General while stressing the responsibility of the Government of Myanmar to demonstrate its stated commitment to cooperation through further tangible results.

IV. Observations

40. The devastation caused by cyclone Nargis was matched in scale only by the unparalleled degree of international solidarity with the people and Government of Myanmar. This, in turn, resulted in an unprecedented level of cooperation between Myanmar and the United Nations in developing a coordinated humanitarian response with ASEAN and other partners. To both the Government of Myanmar and the international community, this experience showed the necessity and merits of engagement and cooperation over isolation and non-cooperation in order to address the needs of the people of Myanmar. Building on this collaboration, the United Nations is committed to continuing to work in partnership with the Government and people of Myanmar to address the broad range of challenges facing their country, based on mutual trust and confidence.

41. At the time of the Special Adviser's visit in November 2007, the Government had just completed the first step in its seven-step road map to democracy, the National Convention. By the time the Special Adviser returned to Myanmar in August 2008, the Government was preparing for the fifth step in its road map, namely, multiparty elections in 2010. At the same time, a number of key stakeholders, including NLD, have formally stated their rejection of the Constitution and the process by which it was adopted, and are reserving their position with regard to their participation in any election under the current circumstances. Thus, despite the Government's efforts in implementing its road map process and addressing the challenges facing the country, the political situation in Myanmar has become even more complex and challenging and potentially more polarized, drawing increased attention from the international community, including the Security Council.

42. The United Nations also remains concerned about ongoing reports of armed conflict and associated human rights abuses and humanitarian problems in ethnic minority areas, particularly in Kayin and Kayah States. Substantive talks leading to

the sustainable cessation of hostilities between the Government and those armed ethnic groups still actively fighting need to be concluded, with a spirit of compromise on both sides. Although the Government has reached ceasefire agreements with a majority of armed ethnic groups, those agreements have yet to be finalized to meet political and socio-economic aspirations, including formalizing disarmament plans that are acceptable to the parties, allowing international humanitarian access to ethnic nationality areas, and ensuring the full participation of ethnic nationality representatives in the national political process.

43. From experience gained around the world, the United Nations has learned that constitutional and electoral processes in any transitional context can have either a divisive or a unifying effect, depending on the level of preparation and the degree of domestic buy-in into the process. The Secretary-General and his Special Adviser have therefore consistently emphasized that only a credible and inclusive political process — based on mutual understanding and compromise by all stakeholders — can help to advance the prospects of durable peace, national reconciliation, democracy and respect for human rights in Myanmar. In this regard, it is unfortunate that specific suggestions of the United Nations to improve the credibility and inclusiveness of the political process have thus far not been taken up by the Government.

44. While the spirit of cooperation between Myanmar and the United Nations has been marked by improvement in recent months, including through the visits of the Secretary-General and of his Special Adviser, it remains a source of frustration that meaningful steps have yet to be taken by the Myanmar authorities in response to the concerns and expectations of the United Nations and the international community in the context of the good offices process. Having seen first hand the nature and complexity of the challenges facing Myanmar, the Secretary-General is aware of the need for the United Nations and the international community to apply determination and perseverance in helping Myanmar to address those challenges through incremental but tangible progress. Following his meetings with the Chairman of the State Peace and Development Council Senior General Than Shwe, and other members of Myanmar's senior leadership in the capital city, Nay Pyi Taw, on 23 May 2008, the Secretary-General is determined to continue his good offices efforts through his Special Adviser. Expectations are high that the Government of Myanmar will start taking substantive action on the proposals made by the Special Adviser in the implementation of relevant General Assembly resolutions, in particular with regard to the release of political prisoners and meaningful dialogue with all relevant stakeholders. Laying the foundations for future stability and prosperity will also require further efforts to address the socio-economic conditions facing the people of Myanmar. While it is essential for the United Nations to be able to rely on the goodwill, flexibility and collaboration of all parties, it remains the primary responsibility of the Government of Myanmar to genuinely demonstrate its stated commitment to cooperating with the United Nations by working constructively through tangible results with the good offices process.

45. Any sustained engagement by the United Nations will also require the continued active support of a united international community, including especially the countries in the region. The world needs a peaceful and prosperous Myanmar that can contribute to the development of the region and play its rightful role in the international community. The Secretary-General therefore welcomes the constructive role played by Myanmar's neighbours and by the members of ASEAN

in support of his good offices and the work of his Special Adviser, and encourages them to intensify their efforts. He also encourages all key interested Member States to work constructively together in support of his good offices and the efforts of his Special Adviser. The more united the international community is, the better the prospects for arriving at the shared goals of peace, democracy, and prosperity for the people of Myanmar. In this regard, the Group of Friends of the Secretary-General on Myanmar provides a useful information forum to exchange views and develop shared approaches in support of his good offices. The continued implementation of the good offices mandate entrusted to the Secretary-General by the General Assembly will also require the Organization to ensure that needed resources are provided to the Office of the Special Adviser.

46. Ultimately, the future of Myanmar rests with the Government and people of Myanmar. The role of the United Nations is to ascertain and attempt to reconcile the positions of all parties and facilitate their efforts to work together through dialogue towards a mutually acceptable process of national reconciliation and democratization, in full respect for Myanmar's sovereignty and in accordance with the expectations of the international community. Independently of any formal process, the political challenges of any transition to democracy require negotiated political solutions. As the country reaches a delicate juncture in its political development, now is the time for the Government and opposition alike to find ways to talk to each other and work together in the interest of the nation, with a view to advancing the shared objectives of peace, prosperity and democracy as the necessary foundations for long-term stability and development. There is no alternative to dialogue to ensure that all stakeholders can contribute to the future of their country. In this regard, the release of Daw Aung San Suu Kyi and other political prisoners will be key for the resumption of an enhanced, all-inclusive, substantive and time-bound dialogue.